

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

EVEREST NATIONAL INSURANCE	)	
COMPANY, as subrogee of Prodigem, LLC.	)	CIVIL ACTION NO.
	)	
Plaintiff,	)	
	)	
v.	)	<b>JURY TRIAL DEMANDED</b>
	)	
TRIANGLE F CONSTRUCTION, LLC.	)	
	)	
	)	
Defendant.	)	

**PLAINTIFF'S ORIGINAL COMPLAINT**

Plaintiff, Everest National Insurance Company, as subrogee of Prodigem, LLC,  
by and through its counsel, complaining of defendant, hereby avers, as follows:

**THE PARTIES**

1. Plaintiff, Everest National Insurance Company [hereinafter "Everest"], is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business in Liberty Corner, New Jersey.

2. At all times material hereto, Plaintiff Everest was duly authorized to issue policies of insurance within the State of Texas.

3. Defendant, Triangle F Construction, LLC. [hereinafter "Triangle F"], is, upon information and belief, a corporation organized and existing under the laws of the State of Texas, with its principal place of business located at 4226 North China Road, Beaumont, Texas 77713. Defendant may be served with process by certified mail or by private process service at the address listed below:

Triangle F Construction, LLC.  
4226 North China Road  
Beaumont, Texas 77713

**JURISDICTION AND VENUE**

4. The jurisdiction of this Court is proper pursuant to 28 USC §1332 as this action is between citizens of different states and the amount in controversy, exclusive of interest and costs, exceeds the sum of \$75,000.00.

5. Venue is proper in this district pursuant to 28 USC §1391 as the events or omissions giving rise to the claims at issue occurred within this district and defendant is subject to personal jurisdiction within the district.

**GENERAL AVERMENTS**

6. At all times material hereto, ProdiGem, LLC [hereinafter “ProdiGem”] occupied a portion of the property at The Shire Apartments– 4020 Highway 365, Port Arthur, Texas [hereinafter “the property”].

7. At all times material hereto, Plaintiff Everest insured ProdiGem’s interests at the property.

8. Prior to September 1, 2013, Defendant Triangle F agreed to perform construction work on the property.

9. During its work, Defendant Triangle F removed the fire resistant exterior façade at the property.

10. As a result of Defendant Triangle F’s service, a fire occurred at the property on or about September 1, 2013

11. Given the fire and resulting damages, ProdiGem, LLC submitted a claim, pursuant to its contract of insurance, and has and will be paid for its damages under the policy’s terms and conditions.

12. To the extent of its payments, Plaintiff Everest is subrogated to the rights its insured.

**COUNT I**  
**NEGLIGENCE – TRIANGLE F CONSTRUCTION, LLC**

13. Plaintiff incorporates its previous averments, by reference.

14. The fire was caused by the negligence, carelessness, recklessness, negligent omissions and/or gross negligence of Defendant Triangle F Construction, LLC, acting by and through its employees, agents and servants, acting within the scope and course of their employment, as follows:

- a. failing to properly secure a temporary light fixture;
- b. failing to take the proper and necessary precautions to protect the exposed facade;
- c. failing to act with due and reasonable care under the circumstances while performing its services to prevent an uncontrolled fire;
- d. failing to take actions and precautions which would have prevented the fire spread and resulting damage;
- e. failing to adhere to applicable industry practices and procedures;
- f. failing to properly and adequately train and/or supervise its employees, agents and/or servants; and/or
- g. otherwise causing or allowing the fire to occur.

**JURY DEMAND**

15. Plaintiff demands that this Court empanel a lawful jury to hear this case.

**RESERVATION OF RIGHTS**

16. Plaintiff specifically reserves the right to bring additional causes of action against the Defendant and to amend this Complaint as necessary.

**PRAYER**

WHEREFORE, Plaintiff Everest respectfully requests judgment be entered in its favor and against Defendant Triangle F Construction, Inc., in an amount in excess of \$75,000.00, together with interest and such other and further relief as this Court may grant.

Respectfully submitted,

/s/ James D. Dendinger  
JAMES DENDINGER  
Texas State Bar No. 24004366  
Cozen O'Connor  
1717 Main Street, Suite 3400  
Dallas, TX 75201  
Telephone: (214) 462-3007  
Facsimile: (214) 462-3299  
[jdendinger@cozen.com](mailto:jdendinger@cozen.com)

- And -

CO-COUNSEL

James P. Cullen, Jr.  
Cozen O'Connor  
1900 Market Street  
Philadelphia, PA 19103  
Telephone: (215) 665-4102  
Facsimile: (215) 665-2013  
[jcullen@cozen.com](mailto:jcullen@cozen.com)

**ATTORNEYS FOR PLAINTIFF**